

**TOWNSHIP OF MAHWAH
BOARD OF HEALTH
MINUTES
July 10, 2018**

The regular monthly meeting of the Board of Health of the Township of Mahwah, held at the Municipal Offices, 475 Corporate Drive, Mahwah, New Jersey, was called to order at 7:30PM by President, Sydney Harris.

The Opening Statement was read according to the Sunshine Law and was followed by Roll Call:

PRESENT: Mr. Harris
 Mrs. DeSilva
 Mr. Cimis
 Mr. LoFaso
 Mr. O'Brien

ABSENT: Dr. DeMaria
 Mr. Wasson

PROFESSIONALS: Mrs. Musella, Health Officer
 Mrs. Campbell, Secretary
 Mr. Mason, Attorney
 Mr. Maas, REHS
 Mr. Ervin, Council Liaison

APPROVAL OF REGULAR MEETING MINUTES

Moved by Mrs. DeSilva and, seconded by Mr. LoFaso and unanimously agreed by all present to approve the minutes of the Regular Meeting of June 12, 2018.

Mrs. DeSilva thanked Mrs. Musella for sending her the tick information she had requested. She then asked if the Board's decision to not waive licensing fees had been relayed to the Recreation Director.

Mrs. Musella responded that the decision was not received well and that Mr. Burns planned to "escalate" the matter. Council Liaison, Mr. Ervin, who is also a Recreation Commissioner, stated he has advised Mr. Burns that moving forward he should include the cost of the Township inspection fees in any entry fee he would charge the vendors.

APPROVAL OF HEALTH ACTIVITIES REPORT

Moved by Mrs. DeSilva and, seconded by Mr. Cimis to approve the Health Activities Report for June.

Mrs. DeSilva requested details on the Conditional rating issued to the Sheraton. Mrs. Campbell noted this was a re-inspection performed by Mrs. Homler and the critical issues had not been resolved. Mr. Maas continued that the Sheraton had been provided ample time to correct any violations. Mrs. Musella believes the main outstanding violation is that the new chef still lacks proper Food Manager Certification.

Mr. Harris inquired if there were any updates to the situation at the Mahwah Post Office. Mr. Ervin expressed that the property is a shambles and as tenants, the Post Office will be relocating to another site (although, not to their satellite facility on Industrial Avenue which was not considered appropriate for the retail component). Currently, they are looking at the old TD Bank facility on MacArthur Boulevard.

There being no further questions or discussion, the Health Activities Report for July 2018 was unanimously approved.

APPROVAL OF HEALTH OFFICER'S REPORT

Moved by Mrs. DeSilva and, seconded by Mr. Cimis to approve the July Health Officer's Report.

Mr. Harris inquired about an issue involving the inspectors' personal information being entered on summonses. Mrs. Musella responded that this was a procedural problem that Mrs. Homler discovered when reviewing a police report. When approached, Chief Batelli agreed the inspectors' home addresses, phone numbers, dates of birth, etc. should not be entered into the record when they are acting in an official capacity. Those reports are often the subject of OPRA requests. Mr. Harris directed Mrs. Musella follow up with the Chief to ensure a new protocol has been instituted.

Mrs. DeSilva inquired about a resident whose well water exceeded safe levels for arsenic and lead contamination. Mrs. Musella explained that arsenic is naturally occurring in the ground water, and that the lead is leaching from the homeowner's pipes. She advised the owner not to consume the water until a re-test was performed. If the re-test results are still high, they will have to take steps to remediate the issue. Arsenic can be carcinogenic and cause developmental issues with children and chronic issues with adults.

In response to Mrs. DeSilva's inquiry, Mrs. Musella advised that this particular homeowner had voluntarily contracted for testing. However, last year 17 other wells in Mahwah were also discovered (in the course of testing mandated by the Private Well Testing Act) to have high arsenic levels.

The DEP has contacted Mrs. Musella to offer a program through Columbia University to notify the neighbors within 1000 feet of those seventeen wells and to offer them free testing. In the past, response to the program was not great with only 13% of respondents returning samples. The DEP believes if the local health authority collaborates and endorses the program, more residents will participate.

The Board as a whole did not see a downside to promoting the program. Mrs. Musella does have a concern involving the request by the DEP to use our Mahwah letterhead to do their mailing. This could create the perception that the Health Department was conducting and/or had the expertise and staff to answer residents' technical questions.

Mr. Cimis inquired if the elevated levels were the result of organic or inorganic contamination. Mrs. Musella read an excerpt from the DEP's email which only advised arsenic was naturally occurring in the region. Mr. Cimis dismissed the DEP's explanation as simply a statement of geologic fact; the more pertinent information was if the DEP could confirm the origin of the contamination at these sites in particular, and perhaps the depths of the wells that were tested. Mrs. Musella responded those details were not addressed in the email.

Mr. O'Brien was concerned with potential legal jeopardy should there be any mishaps with the testing protocols. He posed a scenario where a resident participates in the study and is advised that his water is safe. Five years later, the resident re-tests privately and gets a high arsenic result. Since the Board of Health's imprimatur is on the original test, is the Township liable for any potential harm suffered by the resident or his family?

Mr. Mason responded that giving our residents knowledge of the program advances our agenda to protect the public health. He stated our letter to the target residents can make clear we are advising them as a public service of a confirmed issue and are encouraging them to take appropriate measures to protect themselves. Mrs. Campbell opined that withholding the information and resource could potentially prove more problematic than disseminating it.

Mr. Harris inquired as to the extent of licensing issues in the condominiums. Mrs. Musella explained that the staff was trying to

assist a resident who felt his complaints about pet waste and unlicensed dogs were not being addressed by his Association. A letter was composed and sent to his Association recommending follow up to the complaints and a reminder of their obligation to enforce the Township's licensing and "pooper-scooper" ordinances among their residents.

Mr. O'Brien then requested the extent of the Department's involvement in crafting a new noise ordinance. Mrs. Musella noted that the Township's Ordinance Committee had solicited her comments on a model ordinance which was crafted by the DEP. It is far more specific than our current Board of Health Ordinance and it requires enforcement by a Certified Noise Officer. The Township Ordinance Committee also requested that she reach out to other communities to see where else it had been adopted.

When considering the small number of cases we get, she doesn't feel the expense is warranted. Even if we were to create a shared service agreement, equipment would have to be purchased and maintained, training and certification would have to be provided, and coverage has to be 24/7. The one municipality she found that had passed the law was not interested in sharing services.

Mrs. DeSilva asked if the County would handle these complaints. Mrs. Musella responded that the County Environmental Health Agency is actually funded to enforce the law, but they won't investigate or enforce complaints by individuals against other individuals; only commercial or individual complaints against commercial entities.

Ultimately, she feels that resident-on-resident complaints are usually resolved as violations of nuisance codes or as a disturbance of the peace which does not require additional laws or personnel to address.

There being no further questions or discussion, the June Health Officer's Report was unanimously approved.

BILLS

Moved by Mrs. DeSilva and, seconded by Mr. LoFaso and, unanimously approved by all present to pay the Bills for June.

REPORTS OF STANDING COMMITTEES

No activity.

REPORT OF ATTORNEY

Mr. Mason advised that he had received the Sunshine Committee ledger and funds totaling \$42.18 from past Chair-Person, Nancy Mertz and handed it off to the current Chair-Person, Mr. LoFaso.

CORRESPONDENCE

None received.

OTHER BUSINESS

Mr. Ervin advised that Council had passed Ordinance 1830 prohibiting retail and wholesale marijuana operations in the Township. He noted that if federal law is amended to approve these activities the Ordinance will automatically sunset (in whole or in part). He credited Councilman Wong for suggesting the sunset clause.

Mr. Ervin then conveyed the Council's appreciation for Mrs. Homler's testimony and efforts regarding the issues at the Post Office. It came as a surprise to Council that our Health Inspector could be denied access to inspect. Mrs. Musella noted that if we not been provided proof of professionally accomplished remediation we could have obtained a court order to gain access. Inasmuch as the invoices and reports were provided she did not see the need to challenge them. Mr. Ervin agreed and stated the Post Office has committed to finding another location.

Mr. Ervin made mention of a social media frenzy that seems to be taking place regarding arsenic contamination at the old Apple Ridge Country Club site. He explained that remediation of the site had taken place under DEP supervision and the developer hadn't done anything wrong. The bulk of the contamination occurred up to 75 years ago when the property was an apple orchard and arsenic was used as a pesticide.

Mrs. DeSilva inquired about the contamination of a stream that apparently ran through the property. Mr. Ervin noted that we have a sole source aquifer, and factors such as re-charge times and run off can affect water quality differently from site to site - even wells across the street from each other. The Pleasant Brook is also subject to those variations.

On a motion by Mr. O'Brien, seconded by Mrs. DeSilva, and unanimously carried, the readings of Resolution 2018-08 and Ordinance 18-133 were waived.

Resolution 2018-08: Ordinance 18-133 (2018 Salary Ordinance)
on Introduction

Motion: Mr. O'Brien
Second: Mrs. DeSilva

Roll Call: 5 Ayes

Motion carries.

EXECUTIVE SESSION

On a motion by Mrs. DeSilva, seconded by Mr. LoFaso, and unanimously carried, the Board moved into Executive Session at 8:20pm to discuss a personnel issue.

On a motion by Mrs. DeSilva, seconded by Mr. LoFaso, and unanimously carried, the Board returned to Regular Session at 8:30pm.

ADJOURNMENT

There being no further questions or discussion, a motion to adjourn was made by Mr. O'Brien, seconded by Mr. LoFaso, and unanimously carried at 8:30pm .

The next meeting is scheduled for **September 11, 2018**, at 7:30pm.

Respectfully submitted,

Marianne Campbell
Secretary